

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE ENROLLED ACT No. 17

AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 6-1.1-21.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 21.8. Rainy Day Fund Loans to Qualified Taxing Units**

**Sec. 1.** As used in this chapter, "board" refers to the state board of finance.

**Sec. 2.** As used in this chapter, "qualified taxing unit" means a taxing unit located in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

**Sec. 3.** A qualified taxing unit may apply to the board for one (1) or more loans from the counter-cyclical revenue and economic stabilization fund. The board may make a loan from the fund to the qualified taxing unit if:

- (1) a taxpayer with tangible property subject to taxation by the qualified taxing unit has filed a petition to reorganize under the federal bankruptcy code;
- (2) the taxpayer has defaulted on one (1) or more of its property tax payments;
- (3) the qualified taxing unit has experienced and will continue to experience a significant revenue shortfall as a result of the default; and



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(4) the taxpayer is a steel manufacturer.

**Sec. 4. (a)** The board shall determine the terms of a loan made under this chapter. However, the interest charged on the loan may not exceed the percent of increase in the United States Department of Labor Consumer Price Index for Urban Wage Earners and Clerical Workers during the most recent twelve (12) month period for which data is available as of the date that the unit applies for a loan under this chapter. A loan must be repaid not later than ten (10) years after the date on which the loan was made. The total amount of all the loans made under this chapter may not exceed twenty-eight million dollars (\$28,000,000). The board may disburse the proceeds of a loan in installments. However, not more than one-third (1/3) of the total amount to be loaned under this chapter may be disbursed at any particular time without the review of the budget committee and the approval of the budget agency.

(b) A loan made under this chapter shall be repaid only from:

- (1) property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or IC 6-1.1-19; or
- (2) any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment of principal constitutes a first charge against the property tax revenues described in subdivision (1) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(c) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 6-1.1-19.

(d) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

(e) This section does not prohibit a qualified taxing unit from repaying a loan made under this chapter before the date specified in subsection (a) if a taxpayer described in section 3 of this chapter resumes paying property taxes to the qualified taxing unit.

(f) Interest accrues on a loan made under this chapter until the date the board receives notice from the county auditor that the county has adopted at least one (1) of the following:

- (1) The county adjusted gross income tax under IC 6-3.5-1.1.
- (2) The county option income tax under IC 6-3.5-6.
- (3) The county economic development income tax under IC 6-3.5-7.



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Notwithstanding subsection (a), interest may not be charged on a loan made under this chapter if a tax described in this subsection is adopted before a qualified taxing unit applies for the loan.

**Sec. 5.** The maximum amount that the board may loan to a qualified taxing unit is determined under STEP FOUR of the following formula:

**STEP ONE:** Determine the amount of the taxpayer's property taxes due and payable in November 2001 that are attributable to the qualified taxing unit as determined by the department of local government finance.

**STEP TWO:** Multiply the STEP ONE amount by one and thirty-one thousandths (1.031).

**STEP THREE:** Multiply the STEP TWO product by two (2).

**STEP FOUR:** Add the STEP ONE amount to the STEP THREE product.

However, in the case of a qualified taxing unit that is a school corporation, the amount determined under STEP FOUR shall be reduced by the board to the extent that the school corporation receives relief in the form of adjustments to the school corporation's assessed valuation under IC 21-3-1.6-1.1 or IC 6-1.1-17-0.5.

**Sec. 6. (a)** As used in this section, "delinquent tax" means any tax:

- (1) owed by a taxpayer in a bankruptcy proceeding initially filed in 2001; and
- (2) not paid during the calendar year in which it was first due and payable.

(b) Except as provided in subsection (d), the proceeds of a loan received by the qualified taxing unit under this chapter are not considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 6-1.1-19-1.7. The receipt by a qualified taxing unit of any payment of delinquent tax owed by a taxpayer in bankruptcy is considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 6-1.1-19-1.7.

(c) The proceeds of a loan made under this chapter must first be used to retire any outstanding loans made by the department of commerce to cover a qualified taxing unit's revenue shortfall



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resulting from the taxpayer's default on property tax payments. Any remaining proceeds of a loan made under this chapter and any payment of delinquent taxes by the taxpayer may be expended by the qualified taxing unit only to pay obligations of the qualified taxing unit that have been incurred under appropriations for operating expenses made by the qualified taxing unit and approved by the department of local government finance.

(d) If the sum of the receipts of a qualified taxing unit that are attributable to:

- (1) the loan proceeds; and
- (2) the payment of property taxes owed by a taxpayer in a bankruptcy proceeding and payable in November 2001, May 2002, or November 2002;

exceeds the sum of the taxpayer's property tax liability attributable to the qualified taxing unit for property taxes payable in November 2001, May 2002, and November 2002, the excess as received during any calendar year or years shall be set aside and treated for the calendar year when received as a levy excess subject to IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7. In calculating the payment of property taxes as referred to in subdivision (2), the amount of property tax credit finally allowed under IC 6-1.1-21-5 in respect to those taxes is considered to be a payment of those property taxes.

SECTION 2. IC 6-3.5-1.1-10, AS AMENDED BY P.L.135-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) **Except as provided in subsection (b)**, one-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.

(b) **This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Notwithstanding section 9 of this chapter, the initial certified distribution certified for a county under section 9 of this chapter shall be distributed to the county treasurer from the account established for the county under section 8 of this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county initially adopts an ordinance under section 2 of this chapter:**

- (1) One-fourth (1/4) on October 1 of the year in which the ordinance was adopted.



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(2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance was adopted.

(3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.

(4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

Notwithstanding section 11 of this chapter, the part of the certified distribution received under subdivision (1) that would otherwise be allocated to a civil taxing unit or school corporation as property tax replacement credits under section 11 of this chapter shall be set aside and treated for the calendar year when received by the civil taxing unit or school corporation as a levy excess subject to IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7. Certified distributions made to the county treasurer for calendar years following the eighteen (18) month period described in this subsection shall be made as provided in subsection (a).

~~(b)~~ (c) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of construction, improvement, or renovation of a jail under section 2.7 of this chapter; or

(3) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter;

distributions made to a county treasurer under ~~subsection~~ subsections (a) and (b) shall be treated as though they were property taxes that were due and payable during that same calendar year. **Except as provided by subsection (b)**, the certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

~~(c)~~ (d) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 3. IC 6-3.5-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) **Except as provided in subsection (b)**, on May 1 of each year, one-half (1/2) of each county's certified distribution for a calendar year shall be distributed from its account established under section 10 of this chapter to the county treasurer. The other one-half (1/2) shall be distributed on November 1 of that calendar year.

(b) This subsection applies to a county having a population of



more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Notwithstanding section 11 of this chapter, the initial certified distribution certified for a county under section 11 of this chapter shall be distributed to the county treasurer from the account established for the county under section 10 of this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county initially adopts an ordinance under section 2 of this chapter:

- (1) One-fourth (1/4) on October 1 of the year in which the ordinance was adopted.
- (2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance was adopted.
- (3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.
- (4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

The county auditor and county treasurer shall distribute amounts received under this subsection to a county and each city or town in the county in the same proportions as are set forth in section 12 of this chapter. Certified distributions made to the county treasurer for calendar years following the eighteen (18) month period described in this subsection shall be made as provided in subsection (a).

~~(b)~~ (c) All distributions from an account established under section 10 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(b) Notwithstanding IC 6-3.5-1.1-2, IC 6-3.5-6-8, and IC 6-3.5-7-5, an ordinance to impose the county adjusted gross income tax, the county option income tax, or the county economic development income tax in the county may be adopted before May 16, 2002.

(c) This SECTION expires December 31, 2002.

SECTION 5. An emergency is declared for this act.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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